

Remarks

This application has been carefully reviewed in light of the Office Action dated October 11, 2006. Claims 15 to 50 remain in the application, with Claim 1 having been cancelled herein, and Claims 2 to 14 having previously been cancelled. Claims 15, 46 and 47 are the independent claims currently under consideration. Reconsideration and further examination are respectfully requested.

Claim 15 was objected to for being a duplicate of Claim 1. In this regard, Applicants have cancelled duplicate Claim 1 as set forth above without prejudice or disclaimer of the subject matter therein. Reconsideration and withdrawal of this objection are respectfully requested.

Claims 1 and 15 to 50 were rejected under 35 U.S.C. § 102(b) over International Patent Application Publication No. WO 97/35537 (“Brown”); Claims 15, 16, 19, 20, 28, 29, 31, 35, 36, 38, 42, 43, 47 and 49 were rejected under 35 U.S.C. § 102(b) over European Patent Application No. EPO 0 211 079 (“Ueda”); and Claims 17, 18, 21 to 27, 30, 32 to 34, 38, 39 to 41, 44 to 46, 48 and 50 were rejected under 35 U.S.C. § 103(a) over Ueda in view of Brown. Reconsideration and withdrawal of these rejections are respectfully requested.

With reference to the particular claim language, independent Claim 15 is directed to a delivery capsule having at least two separate chambers, the capsule including a dividing wall or septum defining in part two separate chambers, wherein the dividing wall or septum comprises two layers of material adhered together with an adhesive material.

Independent Claim 46 is directed to a method of encapsulation comprising supplying two films of material capable of deforming plastically on heating and/or when partially solvated, heating the films and/or applying solvent; forming the films into suitably shaped capsule portions, supplying respective substances to be encapsulated to capsule portions of each film, supplying a respective film of a dividing septum material to each of the filled capsule portions,

and sealing the capsule portions and septum material together to form a capsule having at least two separate chambers.

Independent Claim 47 is directed to encapsulation apparatus comprising means for supplying two films of material to an encapsulation unit, means for plastically deforming each film to form suitably shaped capsule portions, means for supplying respective substances to be encapsulated to the respective capsule portions of each film, means for supplying a respective film of dividing septum material to each of the filled capsule portions, and means for sealing together the capsule portions and septum material to produce a capsule having at least two separate chambers.

The applied references are not seen to disclose or suggest the features of the claimed invention, particularly with respect to at least the features of (i) a dividing wall or a septum having two layers of material adhered together with an adhesive material (as in Claim 15) and (ii) supplying a respective film of a dividing septum material to each of two filled capsule portions (as in Claims 46 and 47).

Brown is seen to be generally directed to a method of encapsulation for forming capsules. See Brown, Abstract. The capsules are formed by bringing together two opposed capsule halves in the shape of open hemispheres, such that they form a **single undivided** chamber. See, e.g., Brown pp. 5-6 (wherein hemispherical indentations on opposing drum receive gelatin ribbons which deform to line said indentations and are brought together to form capsules). Nowhere is Brown seen to disclose or suggest a septum or a dividing wall of any kind, let alone a dividing wall or septum having two layers of material adhered together with an adhesive material.

Ueda is not seen to remedy the foregoing deficiencies of Brown. While Ueda is directed to a multi-chamber capsule divided into a plurality of chambers, the chambers are divided by a **single** film. See, e.g., Ueda p. 4, ll. 8-20; p. 9, ll. 7-25. More particularly, Ueda teaches a system and method in which films are deformed into cavities in a rotating drum, such that the cavities are filled when the opening to these cavities are in a vertical or substantially vertical position.

See Ueda, Figure 2; p. 9, ll. 7-25. Alternatively, Ueda discloses filling one cavity when the cavity is in a horizontal position, applying a septum material to the top of this cavity, applying the second filling material to the top of the septum and then applying the second capsule cavity material on top of both the septum and the second filling material. See Ueda, p. 10, l. 17 – p. 11, l. 5. In both cases, the position of the cavities during filling is determined by Ueda's reliance on only a **single** septum material. This is entirely unlike the claimed invention, in which both capsule cavities can be filled when the entrance to the cavity is in the horizontal plane, with the use of septum materials for **each** cavity enabling the cavities to be sealed before these cavities are rotated. This provides a far more simple and efficient filling process. In addition, this enables the cavities to be only partially filled (in contrast to Ueda and Brown, which both rely on the filling process to deform the film and create the cavities), allowing the capsules to have greater propensity for distortion of shape (*e.g.*, "softness") such that, for example, the capsules may be more easily swallowed. Further, given the importance of the provisions of metered does, the greater efficiency in the filling of the capsules via the claimed methods are clearly of greater advantage.

Moreover, there are technical reasons as to why one of ordinary skill in the art, reading Ueda, would not contemplate the use of adhesive, even to apply the **single** septum material disclosed therein to both sides of the capsule. As disclosed on page 9, lines 13-18 of Ueda, the three films must be compressed together **prior** to the filling of the capsules. This is because of the vertical nature of capsule filling in Ueda, as otherwise the filling material would simply not be caught by the capsules. If instead of compression, adhesive was relied upon to seal the films, it would be necessary to allow the adhesive to set prior to applying the filling material. This would significantly slow the process or production of Ueda, such that it would not be contemplated by one of ordinary skill in the art. This is particularly so, given that Ueda teaches that compression is an adequate form of sealing, removing any motivation to contemplate the use of adhesive as a sealing means.

Consequently, Ueda neither teaches the use of two films of septum or dividing wall material, nor provides a system or apparatus in which capsules may be filled "horizontally." Further, Ueda makes no teaching as to the use of adhesive at all, and the process of Ueda provides a technical reason as to why the person skilled in the art would not contemplate the use of adhesive in a system taught by Ueda. Accordingly, nowhere is Ueda seen to disclose or even suggest a dividing wall or septum having two layers of material adhered together with an adhesive material, or supplying a respective film of a dividing septum material to each of two filled capsule portions.

Accordingly, Brown and Ueda, whether taken alone or in combination, are not seen to disclose or suggest the features of independent Claims 15, 46 and 47, particularly with respect to at least the features of (i) a dividing wall or a septum having two layers of material adhered together with an adhesive material and (ii) supplying a respective film of a dividing septum material to each of two filled capsule portions.

The other claims currently under consideration in the application are dependent from the independent claims discussed above and therefore are believed to be allowable over the applied references for at least the same reasons. Because each dependent claim is deemed to define an additional aspect of the invention, however, the individual consideration of each on its own merits is respectfully requested.

In view of the foregoing amendment and remarks, all of the claims under consideration are believed to be in condition for allowance and such action is respectfully requested at the Examiner's earliest convenience.

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Applicant's undersigned attorney may be reached in our Orange County office by telephone at (949) 851-0633. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Joshua M. Nelson
Registration No. 55,487

18191 Von Karman Ave., Suite 400
Irvine, CA 92612-7108
Phone: 949.851.0633 JMN:bdh
Facsimile: 949.851.9348
Date: March 12, 2007
ORC 409212-1.061170.0194

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as our correspondence address.**